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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 WILLIAM MITCHELL,

Case No. 3:16-cv-00384-LRH-WGC

10 Petitioner,

ORDER

11 v.

12 BACA, et al.,

13 Respondents.

14 On August 16, 2017, this court granted respondents' motion to dismiss certain
15 grounds in petitioner William Mitchell's *pro se* 28 U.S.C. § 2254 petition for writ of
16 habeas corpus as unexhausted (ECF No. 32). The court directed Mitchell to file a
17 declaration within thirty days indicating that he either wished to abandon his
18 unexhausted claims, or that this petition be dismissed without prejudice, or that he
19 would seek a stay of these proceedings. *Id.*

20 Instead, Mitchell filed numerous motions for reconsideration, for evidentiary
21 hearing, and for leave to file an amended petition:

- 22 • motion for reconsideration of this court's order (ECF No. 40), which this
23 court denied (ECF No. 46);
- 24 • second motion for leave to file an amended petition (ECF No. 51), which
25 this court denied (ECF No. 63);
- 26 • third motion for appointment of counsel (ECF No. 48), which this court
27 denied (ECF No. 63).
- 28 • motion for evidentiary hearing (ECF No. 50), which this court denied (ECF
No. 63);

- 1 • motions for reconsideration of this court's order denying reconsideration
2 (ECF Nos. 55, 61), which this court denied (ECF No. 63).

3 In an April 17, 2018 order, this court denied most of the motions listed above
4 (ECF No. 63). With respect to ground 1(d) (plea counsel was ineffective because he
5 knew Mitchell was on psychiatric medication at the time and did not knowingly and
6 voluntarily enter his guilty plea), the court explained, again, at length that

7 Mitchell seeks to frame this claim as fraud upon the court or
8 suborning perjury, arguing that his counsel falsely advised the court and
9 let Mitchell falsely state to the court that Mitchell knowingly and voluntarily
10 entered his guilty plea. However, the gravamen of the claim remains the
11 same. Mitchell has already clearly set forth this claim, and he presents no
12 new, compelling bases that the court should appoint counsel or that he
13 should be given leave to file an amended petition

14 (ECF No. 63, p. 2). The court then directed petitioner to file a declaration within
15 thirty days indicating that he either wished to abandon his unexhausted claims, or that
16 this petition be dismissed without prejudice, or that he would seek a stay of these
17 proceedings. The court stated: "petitioner is expressly advised that failure to comply
18 with this order as set forth above will result in the dismissal of this petition." *Id.*

19 Instead, Mitchell filed another motion for reconsideration (ECF No. 64), followed
20 by a motion for clarification (ECF No. 70), and a motion for order granting petitioner's
21 supplement to motion for reconsideration (ECF No. 71). He insists on repeating, in
22 motion after motion, his arguments about a "fraud upon the court" claim. More than a
23 year has passed, and Mitchell has failed to comply with this court's order to state what
24 he wishes to do regarding his unexhausted claims. Accordingly, this petition is
25 dismissed.

26 **IT IS THEREFORE ORDERED** that the following motions filed by petitioner:
27 motion for reconsideration (ECF No. 64); motion for clarification (ECF No. 70); motion
28 for order granting petitioner's supplement to motion for reconsideration (ECF No. 71);
29 and motion to strike (ECF No. 73) are all **DENIED**.

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